

AMENDMENT TO H.R. 2356, AS REPORTED
(SHAYS SUBSTITUTE)

OFFERED BY _____

Add at the end of title II the following new subtitle:

1 **Subtitle C—Exemption of Commu-**
2 **nications Pertaining to Workers,**
3 **Farmers, Families, and Individ-**
4 **uals**

5 **SEC. 221. FINDINGS.**

6 Congress finds the following:

7 (1) There are approximately 138 million people
8 employed in the United States.

9 (2) Thousands of organizations and associations
10 represent these employed persons and their employ-
11 ers in numerous forms and forums, not least of
12 which is by participating in our electoral and polit-
13 ical system in a number of ways, including informing
14 citizens of key votes that affect their common inter-
15 ests, criticizing and praising elected officials for
16 their position on issues, contributing to candidates
17 and political parties, registering voters, and con-
18 ducting get-out-the-vote activities.

19 (3) The rights of American workers to bargain
20 collectively are protected by their First Amendment
21 to the Constitution and by provisions in the National

1 Labor Relations Act. Federal law guarantees the
2 rights of workers to choose whether to bargain col-
3 lectively through a union.

4 (4) Fourteen percent of the American workforce
5 has chosen to affiliate with a labor union. Federal
6 law allows workers and unions the opportunity to
7 combine strength and to work together to seek to
8 improve the lives of America's working families,
9 bring fairness and dignity to the workplace and se-
10 cure social and economic equity in our nation.

11 (5) Nearly three quarters of all United States
12 business firms have no payroll. Most are self-em-
13 ployed persons operating unincorporated businesses,
14 and may or may not be the owner's principal source
15 of income.

16 (6) Minorities owned fewer than 7 percent of all
17 United States firms, excluding C corporations, in
18 1982, but this share soared to about 15 percent by
19 1997. Minorities owned more than 3 million busi-
20 nesses in 1997, of which 615,222 had paid employ-
21 ees, generated more than \$591 billion in revenues,
22 created more than 4.5 million jobs, and provided
23 about \$96 billion in payroll to their workers.

1 (7) In 1999, women made up 46 percent of the
2 labor force. The labor force participation rate of
3 American women was the highest in the world.

4 (8) Labor/Worker unions represent 16 million
5 working women and men of every race and ethnicity
6 and from every walk of life.

7 (9) In recent years, union members and their
8 families have mobilized in growing numbers. In the
9 2000 election, 26 percent of the nation's voters came
10 from union households.

11 (10) According to the 2000 census, total United
12 States families were totaled at over 105 million.

13 (11) In 2000, there were 8.7 million African
14 American families.

15 (12) Asians have larger families than other
16 groups. For example, the average Asian family size
17 is 3.6 persons, as opposed to an average Caucasian
18 family of 3.1 persons.

19 (13) American farmers, ranchers, and agricul-
20 tural managers direct the activities of the world's
21 largest and most productive agricultural sectors.
22 They produce enough food and fiber to meet the
23 needs of the United States and produce a surplus
24 for export.

1 (14) About 17 percent of raw United States ag-
2 ricultural products are exported yearly, including 83
3 million metric tons of cereal grains, 1.6 billion
4 pounds of poultry, and 1.4 million metric tons of
5 fresh vegetables.

6 (15) One-fourth of the world's beef and nearly
7 one-fifth of the world's grain, milk, and eggs are
8 produced in the United States.

9 (16) With 96 percent of the world's population
10 living outside our borders, the world's most produc-
11 tive farmers need access to international markets to
12 compete.

13 (17) Every State benefits from the income gen-
14 erated from agricultural exports. 19 States have ex-
15 ports of \$1 billion or more.

16 (18) America's total on United States exports is
17 \$49.1 billion and the number of imports is \$37.5 bil-
18 lion.

19 (19) By itself, farming-production agriculture-
20 contributed \$60.4 billion toward the national GDP
21 (Gross Domestic Product).

22 (20) Farmers and ranchers provide food and
23 habitat for 75 percent of the Nation's wildlife.

24 (21) More than 23 million jobs-17 percent of
25 the civilian workforce-are involved in some phase of

1 growing and getting our food and clothing to us.
2 America now has fewer farmers, but they are pro-
3 ducing now more than ever before.

4 (22) Twenty-two million American workers
5 process, sell, and trade the Nation's food and fiber.
6 Farmers and ranchers work with the Department of
7 Agriculture to produce healthy crops while caring for
8 soil and water.

9 (23) By February 8, the 39th day of 2002, the
10 average American has earned enough to pay for
11 their family's food for the entire year. In 1970 it
12 took 12 more days than it does now to earn a full
13 food pantry for the year. Even in 1980 it took 10
14 more days—49 total days—of earning to put a
15 year's supply of food on the table.

16 (24) Farmers are facing the 5th straight year
17 of the lowest real net farm income since the Great
18 Depression. Last October, prices farmers received
19 made their sharpest drop since United States De-
20 partment of Agriculture began keeping records 91
21 years ago. During this same period the cost of pro-
22 duction has hit record highs.

23 (25) The First Amendment to the United
24 States Constitution states that, "Congress shall
25 make no law respecting an establishment of religion,

1 or prohibiting the free exercise thereof; or abridging
2 the freedom of speech, or of the press; or of the
3 right of the people to peaceably assemble, and to pe-
4 tition the Government for a redress of grievances.”.

5 (26) The Supreme Court recognized and em-
6 phasized the importance of free speech rights in
7 *Buckley v. Valeo*, where it stated, “A restriction on
8 the amount of money a person or group can spend
9 on political communication during a campaign nec-
10 essarily reduces the quantity of expression by re-
11 stricting the number of issues discussed, the depth
12 of their exploration, and the size of the audience
13 reached. This is because virtually every means of
14 communicating ideas in today’s mass society re-
15 quires the expenditure of money. The distribution of
16 the humblest handbill or leaflet entails printing,
17 paper, and circulation costs. Speeches and rallies
18 generally necessitate hiring a hall and publicizing
19 the event. The electorate’s increasing dependence on
20 television, radio, and other mass media for news and
21 information has made these expensive modes of com-
22 munication indispensable instruments of effective po-
23 litical speech.”.

24 (27) In response to the relentlessly repeated
25 claim that campaign spending has skyrocketed and

1 should be legislatively restrained, the *Buckley* Court
2 stated that the First Amendment denied the govern-
3 ment the power to make that determination: “In the
4 free society ordained by our Constitution, it is not
5 the government but the people—individually as citi-
6 zens and candidates and collectively as associations
7 and political committees—who must retain control
8 over the quantity and range of debate on public
9 issues in a political campaign.”.

10 (28) In *Buckley*, the Court also stated, “The
11 concept that government may restrict the speech of
12 some elements of our society in order to enhance the
13 relative voice of others is wholly foreign to the First
14 Amendment, which was designed ‘to secure the
15 widest possible dissemination of information from di-
16 verse and antagonistic sources,’ and ‘to assure un-
17 fettered exchange of ideas for the bringing about of
18 political and societal changes desired by the
19 people’ ”.

20 (29) Citizens who have an interest in issues
21 about or related to their lives have the Constitu-
22 tional right to criticize or praise their elected offi-
23 cials individually or collectively as a group. Commu-
24 nications in the form of criticism or praise of elected
25 officials is precious protected as free speech under

1 the First Amendment of the Constitution of the
2 United States.

3 (30) This title contains restrictions on the
4 rights of citizens, either individually or collectively,
5 to communicate with or about their elected rep-
6 resentatives and to the general public. Such restric-
7 tions would stifle and suppress individual and group
8 advocacy pertaining to politics and government—the
9 political expression at the core of the electoral proc-
10 ess and of First Amendment freedoms—the very en-
11 gine of democracy.

12 (31) Candidate campaigns and issue campaigns
13 are the primary vehicles for giving voice to popular
14 grievances, raising issues and proposing solutions.
15 An election, and the time leading up to it, is when
16 political speech should be at its most robust and un-
17 fettered.

18 **SEC. 222. EXEMPTION FOR COMMUNICATIONS PERTAINING**
19 **TO WORKERS, FARMERS, FAMILIES, AND IN-**
20 **DIVIDUALS.**

21 None of the restrictions or requirements contained in
22 this title or the amendments made by this title shall apply
23 to any form or mode of communication to the public that
24 consists of information or commentary regarding the
25 statements, actions, positions, or voting records of any in-

1 dividual who holds congressional or other Federal office,
2 or who is a candidate for congressional or other Federal
3 office, on any matter pertaining to any individual.